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ELMBURG, ERIC ELMBURG, ROCKY
FLICK, CRESTWOOD HOLDINGS, INC. and
BERGAN, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL MONTGOMERY,
Plaintiff,

v.

WAL-MART STORES, INC.;
KINDERHOOK INDUSTRIES II, L.P.;
KINDERHOOK INDUSTRIES, L.L.C.;
KINDERHOOK CAPITAL FUND II, L.P.;
CRESTWOOD HOLDINGS, INC.;
BERGAN, L.L.C.; JOHN ELMBURG;
ROBERT ELMBURG; ERIC ELMBURG;
ROCKY FLICK; HOME DEPOT U.S.A.,
INC.; DOES 1 through 20 inclusive,
Defendants.

Case No.: 12CV3057 JLS (DHB)

**DEFENDANT CRESTWOOD
HOLDINGS, INC.'S NOTICE OF
MOTION AND MOTION TO
DISMISS FOR LACK OF
PERSONAL JURISDICTION
(12(B)(2)), LACK OF STANDING
(12(B)(1)), FAILURE TO STATE
A CLAIM (12(B)(6)) AND
MOTION TO STRIKE (12(F))**

Date: April 11, 2013
Time: 1:30 p.m.
Ctvm: 3B
Judge: Hon. Janis L. Sammartino

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on April 11, 2013, at 1:30 p.m., or as soon
3 thereafter as this matter may be heard, in Courtroom 3B of the above Court,
4 Defendant CRESTWOOD HOLDINGS, INC. ("Crestwood Holdings") will and
5 hereby does move the Court for an order dismissing the claims against him in the
6 above styled action pursuant to pursuant to Fed. R. Civ. P. 12(b)(2) for lack of
7 personal jurisdiction, Fed. R. Civ. P. 12(b)(1) for lack of standing, pursuant to
8 12(b)(6) for failure to state a claim, and for an order striking Plaintiff's claim for
9 punitive damages and for attorneys' fees and costs pursuant to Fed. R. Civ. P. 12(f).

10 Crestwood Holding's motion is based upon this Notice and Motion and the
11 accompanying Memorandum of Points and Authorities, the Declaration of Eric
12 Elmburg, President of Crestwood Holdings, Inc., and the pleadings and other papers
13 on file with the Court.

14
15 Dated: March 6, 2013

DUANE MORRIS LLP

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17 By: /s/ Patricia Hollenbeck
18 Patricia P. Hollenbeck
19 Rebecca G. Church
20 David E. Jones
21 Attorneys for JOHN ELMBURG, ROBERT
22 ELMBURG, ERIC ELMBURG, ROCKY
23 FLICK, CRESTWOOD HOLDINGS, INC.
24 and BERGAN, LLC
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